

JUL 26 2004 4:22PM

NO. 2553 P. 2/4

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

SURFACE MATERIALS SALES, INC.

Plaintiff,

vs.

FELISA BLAZEK

Defendant.

) CASE NO. 1:04CV1277

)

) JUDGE DONALD C. NUGENT

)

) AFFIDAVIT OF JOHN AVERY IN

) SUPPORT OF PLAINTIFF, SURFACE

) MATERIALS SALES, INC.'S MOTION

) FOR TEMPORARY RESTRAINING

) ORDER AND PRELIMINARY

) INJUNCTION

STATE OF NEW HAMPSHIRE )

) SS:

COUNTY OF \_\_\_\_\_ )

John Avery, being first duly sworn according to law, states the following of his personal knowledge:

1. I am over the age of eighteen (18) years, am competent to testify, and have personal knowledge of the facts stated in this affidavit.
2. I am currently a sales representative of Surface Materials Sales, Inc. ("Surface") and have been employed by Surface for over a year.

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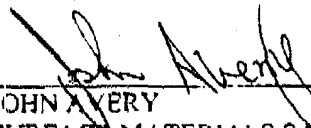
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3. My sales region now includes the State of New Hampshire. Lavallec Bresinger ("Lavallec"), Newman Associates ("Newman"), Stibler Associates ("Stibler"), and C.M.K. Architects ("C.M.K.") are among the Surface clients with locations in Manchester, New Hampshire.
4. One of the most critical duties of a sales representative in the wallcovering industry, and of my duties as a sales representative of Surface, is visiting customers in order to build relationships and to provide them with updated wallcovering samples. At these visits, it is customary in the industry for sales representatives to leave contact information, such as a business card.
5. On or around June 30, 2004, when visiting the places of business of Lavallec Bresinger, L. Newman Associates, Stibler Associates, and C.M.K. Architects in Manchester, New Hampshire, I discovered samples of one of our competitors in the wallcovering industry, Wolf-Gordon ("Wolf"), as well as business cards of Defendant, Felisa Blazek ("Blazek"). I also called upon other Surface customers, such as Whitehouse Design, that had no information from Wolf-Gordon at all.
6. During the week of July 19, 2004, I called upon Tobey Design and JSA, Inc. and found business cards there from Blazek.
7. Blazek's business card noted her as a sales representative or employee of Wolf.
8. Based upon the above information, I have concluded that Blazek is soliciting business from Lavallec, Newman, Stibler, C.M.K. Tobey and JSA as a sales representative of Wolf.

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FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
JOHN AVERY  
SURFACE MATERIALS SALES, INC.

SWORN TO BEFORE ME and subscribed in my presence, this 26 day of July, 2004.

  
\_\_\_\_\_  
NOTARY PUBLIC

ARAM H. SCHWARTZ  
Notary Public, Massachusetts  
My Commission Expires January 29, 2010